

REMARKS

In the Office Action dated October 2, 2001, the Examiner required restriction under 35 U.S.C. § 121 between: Group I, Claims 1-18 and 29-31 asserted to be drawn to "a system for urging a sample well tray from a sample block;" Group II, Claims 19-28 asserted to be drawn to "a heating apparatus for biological samples;" Group III, Claims 32-38 asserted to be drawn to "a system for urging a sample well tray from a sample block;" and Group IV asserted to be drawn to "an urging mechanism." Applicants provisionally elect Group I (pertaining to original claims 1-18 and 29-31) with traverse.

Applicants have amended claims 1-8 and 10-18 and cancelled claims 29-31 in response to the Restriction Requirement, thus rendering moot the restriction between at least Groups I and II. Additionally, Applicants have added new claim 40 pertaining to the subject matter of at least Group I.

Applicants respectfully request the Examiner to reconsider and to withdraw the restriction requirement between at least Groups I and II because the restriction is improper. The basis for such a combination/sub-combination restriction, as stated by the Examiner, is that "the combination as claimed does not require the particulars of the sub-combination as claimed for patentability." In this case, the sub-combination, as asserted by the Examiner, is Group I, directed to, *inter alia*, an urging mechanism, and the combination, as asserted by the Examiner, is Group II, directed to, *inter alia*, an urging mechanism along with a cover.

The Examiner appears to have confused this requirement because she has asserted that the "system of urging of Group I", the sub-combination, "does not require the specific cover means disclosed in Group II", the combination. For this restriction to be proper, the Examiner is required to show the reverse of what she has stated that the

combination does not require the subcombination. Even if properly applied, Group II recites, *inter alia*, a cover in combination with an urging mechanism and thus a restriction requirement between these two Groups could not stand.

Despite Applicants' belief that the restriction between Groups I and II is improper, Applicants have amended claims 1-8 and 10-18 so that all of claims 1-8, 10-28, and 40 now recite a heating apparatus for biological samples. Furthermore, Applicants have cancelled claims 29-31. Therefore the restriction requirement between at least Groups I and II is now moot as all of the claims in the two groups are directed toward a heating apparatus for biological samples. In addition, Applicants assert that there would be no undue burden on the Examiner to examine the subject matter contained in at least Groups I and II. Applicants further submit that there would be no undue burden on the Examiner to examine the subject matter of Groups III and IV in this application and request withdrawal of the Restriction Requirement to these groups as well.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 1, 2001

By: _____



Troy E. Grabow
Reg. No. 43,440



Application Number: 09/496,408
Filing Date: February 2, 2000
Attorney Docket Number: 07414.0018

APPENDIX TO AMENDMENT OF NOVEMBER 1, 2001

Version with Markings to Show Changes Made

RECEIVED
NOV 06 2001
C 1700

Amendments to the Claims

Please amend claims 1-8 and 10-18 as follows:

1. (Amended) [A system for urging a sample well tray away from a sample block] A heating apparatus for biological samples, comprising:

a sample block having a plurality of openings for receiving sample wells of a sample well tray therein; and

at least one urging mechanism interposed between the sample block and the sample well tray, said urging mechanism configured to impart an urging force on the sample well tray,

wherein said urging force [to] urges the sample wells away from the openings in the sample block upon removal of a pressing force imparted on the top of the sample well tray for pressing the sample wells into the openings of the sample block.

2. (Amended) The [system] apparatus of claim 1, wherein said urging mechanism is engageable with the sample well tray.

3. (Amended) The [system] apparatus of claim 1, wherein said urging mechanism comprises a plurality of spring devices.

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000

4. (Amended) The [system] apparatus of claim 3, wherein at least one of said spring devices is positioned about an outer periphery of the sample block in a region outside of the openings in the sample block.

5. (Amended) The [system] apparatus of claim 4, the sample block further comprising at least one receiving portion for receiving a portion of said at least one spring device.

6. (Amended) The [system] apparatus of claim 5, wherein said at least one spring device comprises a coil spring.

7. (Amended) The [system] apparatus of claim 6, wherein the receiving portion comprises a cylindrical opening for accommodating a portion of the coil spring.

8. (Amended) The [system] apparatus of claim 3, wherein said plurality of spring devices are positioned substantially symmetric around the periphery of the sample block.

10. (Amended) The [system] apparatus of claim 1, wherein the urging mechanism comprises a plurality of spring devices spaced around an outer periphery of a top surface of the sample block, said spring devices being accommodated in cylindrical openings in the sample block, said spring devices engaging a bottom surface of the sample well tray in order to provide the urging force to disengage the sample well

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000

tray from the sample block upon opening of a cover for the [system] apparatus, said cover configured to provide the pressing force on top of the sample well tray.

11. (Amended) The [system] apparatus of claim 1, further comprising a sample well tray holder for holding the sample well tray, said sample well tray being movable relative to the sample well tray holder.

12. (Amended) The [system] apparatus of claim 11, wherein said urging mechanism biases the sample well tray holder away from the sample block to thereby urge the sample wells out of the openings in the sample block upon removal of the pressing force which occurs upon the opening of a cover for the sample well tray.

13. (Amended) The [system] apparatus of claim 12, wherein said urging mechanism comprises a plurality of spring devices.

14. (Amended) The [system] apparatus of claim 13, wherein a portion of the spring devices are attached to the sample well tray holder.

15. (Amended) The [system] apparatus of claim 14, wherein the spring devices are positioned substantially uniformly around an opening for the sample well tray on the bottom of the sample well tray holder.

16. (Amended) The [system] apparatus of claim 15, comprising four of said spring devices.

17. (Amended) The [system] apparatus of claim 15, wherein said spring devices comprise leaf springs.

18. (Amended) The [system] apparatus of claim 1, wherein the sample wells received by the sample block are sized to have a fluid volume in the range of 10 to 500 μ L.

LAW OFFICES

FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N. W.
WASHINGTON, DC 20005
202-408-4000